IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 80 of 1997

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HIDAYATKHAN SHARIFFKHAN PATHAN

Versus

COLLECTOR

Appearance:

1. Special Civil Application No. 80 of 1997

MR BS PATEL for Petitioner No. 1

MRS RANJAN B PATEL for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-3

MR BIPIN I MEHTA for Respondent No. 4

MR BHARGAV N BHATT for Respondent No. 5

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 07/12/2004

ORAL JUDGEMENT

1. The petitioner has by way of this petition prayed for quashing and setting aside the order at annexure-A to the extent of holding the election for the post of Vice President in respondent no. 4 Municipality, which is scheduled to be held on 7th January, 1997.

2. Having gone through the record of this petition, it appears that while admitting the matter, this Court [Coram : R.K. Abichandani, J.] on 1st August, 1997, had passed the following order, wherein the relevant portion reads as under :-

> "Rule. ..... It is stated that the election for the new Vice President has been held but it has not been declared because of the ad-interim order of this Court. As provided by Section 34 (1) of the said Act, it is the duty of the outgoing Vice President to handover his charge to the new Vice President. The election of the new Vice President has been held and, therefore, the petitioner cannot be allowed to continue as Vice President even for a day more. In these circumstances, ad-interim relief granted of not declaring the result of the Vice President is hereby vacated and the interim relief as prayed for by the petitioner is refused."

3. However, on the facts and circumstances of the case, it appears that by afflux of time, the prayer which has been claimed for by the petitioner has become infructuous. Hence, the petition stands disposed of as having become infructuous. Rule is discharged with no order as to costs. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

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